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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,688	09/23/2000	Christopher Charles McCormick	570-001us	4264

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DEMONT & BREYER, LLC
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HOLMDEL, NJ 07733

EXAMINER

WARDEN, JILL ALICE

ART UNIT	PAPER NUMBER
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1743

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/668,688	Applicant(s) MCCORMICK ET AL.	
	Examiner Jill A. Warden	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,22-32 and 34-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,22-32 and 34-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicant's arguments filed 21 August 2006, with respect to the rejection(s) of claim(s) 20, 22-32 and 34-40 under 35 USC 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Schuller.

Claim Objections

Claim 34 and 35 are objected to because of the following informalities: Claim 34 is dependent on cancelled claim 33. Appropriate correction is required. For examination purposes, they will be interpreted as depending on claim 31.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 20, 24, 26-29, 31-32, 34, 37 and 39 are rejected under 35

U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schuller.

Schuller teaches a chemical product commerce network. Specifically, Schuller teaches a computer system with purchasers (clients) connected through a server to a database containing chemical data for chemicals to be purchased, and a purchasing system, where the clients can purchase batches of the chemicals in the database. Schuller also teaches that in response to an inquiry from a purchaser, a sample of the product identified in the database can be tested by an intermediate and the results are made available to the purchaser. The purchaser can finalize the transaction, having the chemical purchased and shipped. With respect to the requirement recited in claim 20 that each product be tested by the testing facility, it is expected that, over time, all products available for purchase would be tested. However, if not, it would have been obvious to one of ordinary skill in the art to provide periodic testing of all products made available through the network, in order to verify product information over time.

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With respect to the inclusion of a plurality of supplier's batch information being stored in the database, and available for testing of those products, it would appear that Schuller anticipates this feature. See for example, where Schuller teaches multiple suppliers as well as multiple purchasers (column 3, line 14, et seq.) and multiple vendors contributing to the one database of product-related information (column 6, lines 56-67). As Schuller has already discussed independent testing by the intermediate, it would appear that such testing would have been available in this multiple vendor embodiment. However, if not, it would have been obvious to make such testing available in a multi-user/vendor system as an independent way to verify product information supplied, as well as to expand upon it.

Claims 22, 23, 25, 30, 35, 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuller.

Schuller does not specifically teach:

- Outputting statistics to a subscriber,
- Pricing below a normal selling price,
- Specifically providing no information about vendor to the purchaser, and
- Ranking products based on a criteria.

One of the advantages of a database, is the storing of historical data, as well as the ability to mine that data for all types of information, including trends. It would have been obvious to one having ordinary skill in the art to employ the services of a statistician to organize historical database information in a manner useful to the owner, as well as the users of that database.

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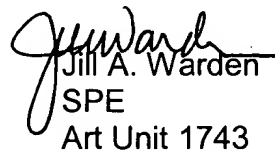
With respect to sale items, it is in the best interest of a purchaser to determine the reasons for a sale on a particular item, and to ensure an acceptable level of quality for all his purchases. It would have been obvious to one having ordinary skill in the art to perform quality testing on any item offered for sale below an average selling price to determine if it meets the minimum standards required by the purchaser.

With respect to "white-washing" the vendor information, the best testing is done "blind" so that no name-brand influence can occur. It would have been obvious to one having ordinary skill in the art to test the products blindly in order to eliminate any brand name influence.

With respect to product ranking, again, this is one of the advantages of using a database. Data is easily reorganized to provide statistical analysis. It would have been obvious to one having ordinary skill in the art to list product analysis in an order from most desirable to least desirable given the specifications provided by the purchaser for easy viewing of the analysis. Such amounts to a ranking of the products.

Conclusion

Any inquiry concerning this communication should be directed to Jill A. Warden at telephone number (571) 272-1267.


Jill A. Warden
SPE
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